

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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COMMERCE COMMISSION

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Ronald W. Johnson

vs.

Illinois Power Company

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Docket No. 04-0191

CHIEF CLERK'S OFFICE

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DIRECT TESTIMONY

OF

RONALD W. JOHNSON

June 4, 2004

Q. Please state your name and business address for the record.

A. My name is Ronald W. Johnson. My business address is 777 Bradbury Lane, Sparta, Illinois 62286.

Q. In what business are you employed?

A. I am the owner and manager of three mobile home parks in and around Sparta, Illinois, among them Kool Valley Mobile Home Park.

Q. How long have you been in the business of owning and managing mobile home parks?

A. I have been in the business for 34 years.

Q. Will you explain what is entailed in owning and managing a mobile home park?

A. Yes. In addition to maintaining and paying the taxes on the lands that encompass my mobile home parks, I'm responsible for maintaining water lines and arranging for tenant garbage removal. I also solicit renters through newspaper ads for the lots located in the parks. Once I have a renter, I obtain the necessary occupancy permit from the city of Sparta for the tenant to obtain utility service. The tenants then contact the local utility companies, such as telephone, electric and gas companies, to establish service in the tenants' names.

Q. How many rental lots are in the Kool Valley Mobile Home Park?

A. There are a total of 54 lots.

Q. What happened on or around January 2, 2004?

A. I telephoned Illinois Power Company, the local electric and gas service provider in Sparta, Illinois, at its Decatur offices to request the initiation of natural gas service at Lot 6, Kool Valley Mobile Home Park. About three days later, I provided the necessary "occupancy permit number" (04-003) to an IP customer service representative to begin metered service at that location. The customer service representative I spoke to promised service would be supplied the next business day.

Q. Was there already a gas meter at the Lot 6 location?

A. To the best of my recollection, yes. However, in response to a data request, the Company indicated the meter at Lot 6 had been removed on or around May 10, 2001.

Q. Did Illinois Power provide you with the requested service at Lot 6?

A. No, they did not. On or around January 6, 2004, I drove to Kool Valley and discovered that rather than initiating service at the location, the Company had cut and capped the gas service pipe that connects a customer structure with the utility's main. The Company never informed me before cutting and capping the service pipe as to why it was taking that step. In addition, the Company left a large hole in the street at the Lot 6 location and has made no effort to fill-in or

repair the damage to my property. After some two months, I hired a contractor to repair the oil and chip surface at a cost to me of \$595.00.

Q. What did you do upon discovering that the gas line at Lot 6 had been cut and capped?

A. I called Illinois Power's Decatur offices on January 7, 2004 from my office and spoke to a customer service representative named Gwendolyn. I was told by that customer service representative that I did not obtain gas service at Lot 6 because the building I hoped to heat was more than three feet from the gas meter. Upon learning this, a few employees, renters and I moved the structure until it was about 1.5 feet from the meter.

Q. Were you then able to establish natural gas service at Lot 6?

A. No. On or about January 12, 2004, I telephoned the Company's Decatur offices again from my office to inquire further about the problem. After speaking to a customer service representative, I was connected with IP's Regional Engineering Supervisor Mike Tatlock. Mr. Tatlock told me that because the building at Lot 6 was a "temporary structure", I would not be receiving service at that location.

Q. What kind of building was situated at Lot 6?

A. The building is a storage shed that I use to store land maintenance equipment and other tools. Workers who assist me in the maintenance of Kool Valley Park

stand inside the shed at times when they are getting tools or engaged in repairs of some kind.

Q. Did you contact the Illinois Commerce Commission about the problem?

A. Yes. I telephoned from my office the ICC office located in Springfield on January 6, 2004, after the line had been cut. I spoke with a representative named Cindy Susmarski about the incident. Ms. Susmarski told me that she would contact the Company and get back to me. I telephoned the ICC again on January 14, 2004 to find out if any progress had been made. The ICC representative I spoke to told me that I could expect to receive a call from the Company.

Q. What happened next?

A. On January 20, 2004 I received a telephone call at my office from Mr. Tatlock from IP, who told me the Company would be taking no further action to assist me in obtaining natural gas service at Lot 6 because the gas service line had been cut. When I asked to speak to his supervisor, Mr. Tatlock said he would not provide the name of his supervisor. He then hung up on me.

Q. What did you do after you spoke to Mr. Tatlock?

A. I then made a telephone call to the ICC from my office. I believe I again spoke to Ms. Susmarski, who told me that I should call back on January 23, 2004.

Q. Then what happened?

A. I called the ICC again from my office on January 23, 2004. I was told by the ICC representative, Ms. Susmarski, that I should call back on January 30, 2004.

Q. Then what happened?

A. I called the ICC again from my office on January 30, 2004 and spoke to Ms. Susmarski. She then connected me to an ICC supervisor named "Kathy", who told me that IP acted appropriately, and that I had no remedy. When I asked if anything else could be done, she told me to call back on February 4, 2004. On February 5, 2004, after calling the ICC from my office, I requested that the forms necessary to file a formal complaint with the ICC be sent to me. On February 24, 2004, the forms for filing a formal complaint were finally mailed to me.

Q. Since the January incident at Lot 6, have any other gas service lines at your Kool Valley Park been marked for removal?

A. Yes. Two other gas service lines have been marked for removal: the lines at lots 36 and 37. In response to a data request, the Company also indicated that lots 26 and 41 are scheduled for removal. (IP Response to Data Request RJ-13.)

Q. Prior to the cutting and capping of the gas service line at Lot 6, did you receive any kind of written or oral notice from Illinois Power that the line in question would be retired?

A. No. Upon review of data request responses forwarded by the Company, I believe it is IP's position that, because there was no gas service "customer of record" at these lot locations, there was no one to which notice could be sent. (IP Responses to Data Requests RJ-34, RJ-36.) This strikes me as irresponsible, given the fact that the Company knows that the owner of the mobile home park will be forced to

incur the cost of re-establishing retired gas service lines at the various lot locations.

Q. How much would it cost you to re-establish a gas service line at Lot 6 or any other location where a gas service line will be retired?

A. In response to a data request, the Company indicated that the cost for a new gas service line is currently \$837.00. (IP Response to Data Request RJ-11.)

Q. To date, have you received any kind of written or oral notice from Illinois Power that the marked lines or any other gas service line in Kool Valley would be retired?

A. No.

Q. What have you learned since filing your formal complaint with the ICC about the Company's decision to retire the aforementioned gas service lines at Kool Valley Park?

A. In its April 26, 2004 response to a data request forwarded by my attorney, the Company stated that it follows an in-house policy known as the "Inactive Gas Service Retirement Policy" when determining when to cut and cap and/or remove gas service pipe leading to a customer structure. That policy, as provided to me, states as follows:

Effective 6/16/03

Retirement

Illinois Power will develop a 5 year plan to eliminate all inactive services within 3 years of the meter remove date, to be completed by 6/16/08.

After the five year plan:

- 1) Inactive gas services will be retired within 36 months of meter removal.
- 2) An inactive gas service can be retired as early as (sic) 24 months after meter removal.
- 3) During a main replacement or relocation, inactive services will not be replaced or reconnected.

Restoration of service

If a customer requests that gas service be restored, the customer will pay to install new service unless service was inactive for less than 24 months when retired and the customer requests gas service be reinstated within 36 months of meter removal. (emphasis supplied in original)

A copy of this policy, provided by the Company in response to Data Request RJ-2, is attached to my testimony as Appendix A.

Q. Was April 26, 2004 the first time you learned of this IP policy?

A. Yes.

Q. To the best of your knowledge, is IP's "Inactive Gas Service Retirement Policy" formalized in any way for the public's notice?

A. No. It is my understanding that this "policy" appears nowhere in the public realm. For example, it is neither based on a formal ICC regulation nor a Commission order. Likewise this policy is nowhere formalized as a statute of any kind. The Company indicated in response to a data request that the policy arose out of a meeting during the summer of 2003 between four IP employees and three ICC representatives.

Q. As a property owner affected by the initiation of this policy, what is your interpretation of its terms?

A. It's difficult to say. I've read the policy several times and it seems that an inactive gas service line could be subject to retirement as soon as a meter is removed, but no later than three years after the meter remove date. (Under the heading "**Retirement**", the policy reads, "Illinois Power will develop a 5 year plan to eliminate all inactive services *within* 3 years of the meter remove date, to be completed by 6/16/08.") The policy then goes on to state that "*After the five year plan:*

- 1) Inactive gas services will be retired within 36 months of meter removal.
- 2) An inactive gas service can be retired as early a (sic) 24 months after meter removal.
- 3) During a main replacement or relocation, inactive services will not be replaced or reconnected."

Reading this section, it appears that *after* the five year plan, gas service lines will not be retired until 24 months have passed after meter removal. To add to the confusion, this provision also states that inactive services will not be replaced or reconnected if the Company happens to be replacing a main. This point can be interpreted to mean that a gas service line can be retired during a main replacement even if the customer stopped service (but still has a meter) the day before.

As for the "Restoration of Service" portion of the policy, it too is vague. Again, its states: "If a customer requests that gas service be restored, the

customer will pay to install new service unless service was inactive for less than 24 months when retired and the customer requests gas service be reinstated within 36 months of meter removal.” (Emphasis supplied in original.) While at first blush it seems that a customer can avoid paying for a gas service line reinstatement if the service was inactive for less than 24 months when retired and the reinstatement request comes within 36 months of meter removal, the very terms of the retirement policy dictate that, after the five year plan, if not now, no service be retired until 24 months have passed. Therefore, it appears that it would be impossible to avoid having to pay the \$837 reinstatement fee.

Q. Prior to the initiation of IP’s “Inactive Gas Service Retirement Policy”, how long did the Company wait before retiring inactive gas service lines?

A. In response to a data request, the Company indicated that prior to the adoption of its “Inactive Gas Service Retirement Policy”, gas service lines could be left in the ground some 10 years after the removal of a customer meter. (IP Response to Data Request RJ-38.)

Q. How many of the 54 lots are unoccupied as of June, 2004?

A. Sixteen lots in the Kool Valley park currently have no tenants.

Q. If enforced, how will the Company’s “Inactive Gas Service Retirement Policy” affect your ability to operate the Kool Valley Mobile Home Park?

A. Already I'm faced with having to spend more than \$800, if I ever want to lease Lot 6, in order to be able to offer natural gas service at that location. In addition, it will cost me thousands of dollars to re-establish service at the various lot locations where gas service lines are now subject to retirement. Also, assuming the Company continues to fail to fill in and repair the damage done to the streets on my property when it retires gas service lines, I stand to incur thousands more in property repairs. Suffice it to say that IP's current policy of retiring inactive gas service lines will put me out of business at the Kool Valley Park, as well as my other two mobile home parks.

Q. Why do you believe the Company's "Inactive Gas Service Retirement Policy" will put you out of business?

A. First, as I've discussed above, I have no ability to anticipate when the Company will come in and retire gas service lines. Because the Company failed to inform me of the policy, either when a meter is pulled or when it was first developed last summer, I am unable to predict when an IP truck will pull into the park and begin gas service line retirements.

Second, even if IP had provided me notice of the policy, which it did not, there appears to be no rhyme or reason to how it is applied. For example, I can drive around the city of Sparta and find so-called "inactive" services at various spec homes, empty lots and rental units where gas service lines at these locations would be subject to retirement under the Company's policy, but have not been cut and capped. Moreover, in response to a data request, IP indicated that it

determines the order of inactive service removal by giving “consideration to (1) the length of time the service has been inactive and (2) availability of labor.” (IP Response to Data Request RJ-37.) These criteria tell me nothing in terms of anticipating which gas service lines in my mobile home parks will be cut.

Third, because the decision to remove a gas service line under the “Inactive Gas Service Retirement Policy” is directly linked to the meter removal date, yet another layer of uncertainty exists. The ambiguity arises due to the fact that, according to the Company, “(e)ither the customer or Company can initiate meter removal.” (IP Response to Data Request RJ-30.) My understanding is that the Company “attempts to remove meters after service has been turned off for twelve months.” (IP Response to Data Request RJ-31.) Whether the Company is referring to the last tenant or the landowner when it references “customer” requests for meter removals is unclear. I can’t imagine why a departing tenant would care if a meter is removed if they are leaving the premises. Moreover, as the owner of Kool Valley, I have never called to ask to have a meter removed for inactivity. Therefore, it would seem that in the vast majority of circumstances, the meter removal date is solely within the discretion of the Company.

As it turns out, there is a financial incentive for a customer to *not* request that gas service be turned back on at a given location within 12 months of a Final Account status. Upon receipt of the last bill, the Company informs the customer that “If you have service turned back on at this premise within the next 12 months you will be billed the facility charges for each month the service was turned off.”

I know this because I received a bill in February that included this very language.

A copy of said bill is attached to my testimony as Appendix B.

Fourth, given the transient nature of the mobile home park lot rental business, it is difficult to satisfy the Company's criteria for maintaining an "active" customer status at my various lots, such that I could avoid having gas service lines cut and capped on a constant basis. This is particularly true in the Sparta area, where the closing of several coal mines, a printing company, a comic book and baseball card distribution company, and a steel pipe company have left the area economically depressed, thereby reducing the pool of prospective tenants.

Q. What relief are you seeking from the Commission?

A. As I've discussed above, I received no notice from the Company as to its "Inactive Gas Service Retirement Policy", either when a meter on my property was pulled, after it was developed in a meeting last summer, or in January when I requested that service be reinstated at Lot 6. This policy was apparently created informally, with no opportunity for public input or the inclusion of strict notice provisions. While it appears to have the approval of a few ICC employees, the full Commission never conducted hearings or issued a formal ruling on the matter.

If IP believes the storage shed located at Lot 6 is too "temporary" for natural gas service, I can live with that. However, my business will not survive the application of a gas service line retirement "policy" that is vague and unpredictable. Property owners like me who lease space to tenants must have the

ability to provide natural gas service to the premises occupying the lot.

Prospective tenants are likely to look elsewhere if I inform them that they must wait for the installation of a gas service line at a particular lot or, worse yet, that they will have to pay the \$837 to reinstate natural gas service at the location. I believe the Commission would have been interested in considering the viewpoint of a landowner like me before adopting such a policy. Had the Commission held a rulemaking to create uniform gas service line retirement standards for natural gas service providers throughout the state, an analysis of the financial ramifications associated with IP's vague policy could have been considered by the full Commission. In addition, strict notice provisions to landowners could have been incorporated in whatever policy was eventually approved.

Given the Company's failure to provide notice regarding its new cutting and capping policy, the Company's duty to provide natural gas service as a monopoly utility and the lack of *formal* Commission approval for IP's gas service line retirement policy, the Commission should order IP to:

- (1) replace, at its own expense, the gas service pipe removed at Lot 6, Kool Valley Mobile Home Park, Sparta, Illinois;
- (2) establish metered gas service at said Lot 6;
- (3) refrain from removing any additional gas service pipeline presently marked for removal at Kool Valley Mobile Home Park, including but not limited to the two locations now marked by IP for removal;
- (4) repair any damage inflicted upon my property as a result of said removal of gas service pipe at Lot 6;

5) hold public hearings on the issue of when and under what circumstances gas service lines should be retired, either through a formal rulemaking or other proceeding; and

(6) order such further relief as the Commission deems just and reasonable.

Q. Does this conclude your testimony?

A. Yes, it does.